

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-11 are presently pending in this case. Claims 1, 7, and 8 are amended and new Claims 9-11 are added by the present amendment. As amended Claims 1, 7, and 8 and new Claims 9-11 are supported by the original disclosure,¹ no new matter is added.

In the outstanding Official Action, Claims 1-8 were rejected under 35 U.S.C. §102(e) as anticipated by Ue et al. (U.S. Patent No. 6,973,289, hereinafter "Ue").

Initially, it is respectfully noted that reference AW listed on the information disclosure statement filed June 2, 2004 was not initialed as considered. Accordingly, a form 1449 with reference AW initialed as considered is respectfully requested to be included with the next office communication.

With regard to the rejection of Claim 1 as anticipated by Ue, that rejection is respectfully traversed.

Amended Claim 1 recites in part:

a communications-terminal selecting unit configured to select out of said communications terminals one or more communications terminals for changing corresponding downlink transmission rates in accordance with said downlink transmission qualities obtained at said transmission-quality obtaining unit, ***said communications-terminal selecting unit configured to select at least a communications terminal having a highest downlink transmission rate among communications terminals having a transmission quality below a threshold.***

Ue describes a method of controlling the transmission rate between a base station and a communication terminal.² In the method described by Ue, the transmission rate is changed

¹See, e.g., the specification at page 12, lines 22-32 and page 16, lines 12-25.

²See Ue, abstract.

every time the reception quality measurement result is less than a threshold.³ This comparison is done in four different scenarios, shown in Figures 8 to 11 of Ue. However, it is respectfully submitted that none of these scenarios shown in Figures 8 to 11 of Ue involve a comparison between **multiple** communication terminals of the downlink transmission rate of the terminals. In contrast, the invention recited in Claim 1 includes a communications-terminal selecting unit configured to select at least **a communications terminal having a highest downlink transmission rate** among communications terminals having a transmission quality below a threshold. Thus, it is respectfully submitted that Ue does not teach “a communications-terminal selecting unit” as defined in amended Claim 1. Consequently, Claim 1 (and Claims 2-6 dependent therefrom) is not anticipated by Ue and is patentable thereover.

Amended Claim 7 recites in part:

a mobile-station selecting unit configured to select out of said mobile stations one or more mobile stations for changing corresponding downlink transmission rates in accordance with said downlink transmission qualities obtained at said transmission-quality obtaining unit, **said mobile-station selecting unit configured to select at least a mobile station having a highest downlink transmission rate among mobile stations having a transmission quality below a threshold.**

As noted above, Ue does not describe a comparison between **multiple** mobile stations of the downlink transmission rate of the mobile stations. Thus, it is respectfully submitted that Ue does not teach “a mobile-station selecting unit” as defined in amended Claim 7 either. Consequently, Claim 7 is not anticipated by Ue and is patentable thereover.

Amended Claim 8 recites in part:

selecting, when at least one of said downlink transmission qualities is determined to fall below a predetermined quality, as one or more of the communications terminals which cause to change corresponding one or more of the downlink transmission rates, at least one communications

³See Ue, column 7, lines 3-7.

terminal out of said communications terminals with
corresponding downlink transmission quality falling below said
predetermined quality and ***having a highest downlink
transmission rate.***

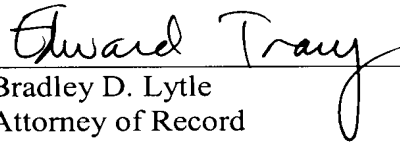
As noted above, Ue does not describe selecting one or more communication terminals
to control the downlink transmission rate of based on a comparison between ***multiple***
communication terminals of the downlink transmission rate of the terminals. Thus, it is
respectfully submitted that Ue does not teach "selecting" as defined in amended Claim 8.
Consequently, Claim 8 is not anticipated by Ue and is patentable thereover.

New Claims 9-11 are supported at least by the specification at page 16, lines 12-25.
New Claims 9-11 are dependent on Claims 1, 7, and 8, respectively, and thus are believed to
be patentable for at least the reasons described above. In addition, Claims 9-11 recite subject
matter that further patentably defines over Ue. Consequently, Claims 9-11 are also
patentable over Ue.

Accordingly, the pending claims are believed to be in condition for formal allowance.
An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

Edward W. Tracy, Jr.
Registration No. 47,998